

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN ASSEMBLY JUNE 29, 2011

AMENDED IN SENATE MAY 24, 2011

**SENATE BILL**

**No. 140**

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**Introduced by Senator Lowenthal**

January 31, 2011

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An act to add and repeal Sections 60227.5 and 60605.86 of the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

SB 140, as amended, Lowenthal. Instructional materials.

(1) Existing law requires the State Board of Education to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, and authorizes the state board to establish criteria for that purpose. Existing law requires the state board in reviewing and adopting instructional materials to use specified criteria and ensure that, in its judgment, the submitted instructional materials meet all of the specified criteria. *Existing law prohibits the state board from adopting instructional materials, or following specified procedures, until the 2015–16 school year.*

*This bill would require the State Department of Education to recommend, and the state board to approve, evaluation criteria to guide the development and review of 8th grade mathematics instructional materials, as specified. The bill also would require the department to recommend, and the state board to approve, content review experts to review 8th grade mathematics instructional materials, as specified. The bill would require the department to provide specified notice to*

publishers and manufacturers before commencing the adoption process for 8th grade mathematics instructional materials. ~~This~~ *The* bill would require the department to assess a fee on each publisher or manufacturer that chooses to participate in the 8th grade mathematics instructional materials adoption process; and would require the fee to comply with specified requirements. The bill would prohibit a ~~publisher~~ *publisher's* or manufacturer's 8th grade mathematics instructional materials from being reviewed for purposes of adoption until the fee is paid in full. ~~The bill would authorize the department to reduce the fee for participation in the 8th grade mathematics instructional materials adoption process upon the request of a small publisher or manufacturer, as defined.~~ The bill would require the adoption of 8th grade mathematics instructional materials by the state board in accordance with this adoption process to be *performed notwithstanding the prohibition against adopting instructional materials until the 2015–16 school year, and to be* considered the adoption of instructional materials that are aligned to the *California* common core academic content standards for 8th grade mathematics.

(2) Existing law establishes the Academic Content Standards Commission; and requires the commission to develop academic content standards in language arts and mathematics and to present its recommended academic content standards to the State Board of Education. Existing law requires at least 85% of these standards to be the common core academic standards developed by the Common Core State Standards Initiative consortium or any associated or related interstate collaboration. Existing law requires the state board to adopt or reject the academic content standards. Existing law exempts instructional materials that are aligned to these standards from the requirement that the state board adopt any additional criteria that instructional materials will be required to meet at least 30 months before the materials are to be approved for adoption.

This bill would require the State Department of Education *to recommend, and the state board to approve, evaluation criteria to guide the development and review of supplemental instructional materials.* *The bill also would require the department, on a one-time basis, to develop a list, on or before July 1, 2012, of supplemental instructional materials for use in kindergarten and grades 1 to 8, inclusive, that are aligned with California's the California* common core academic content standards in language arts and mathematics. The bill would require the state board to perform specified reviews and to ~~either~~ approve or reject

~~the all, or a portion, of the list of~~ supplemental instructional materials as proposed by the department ~~and would authorize the state board to add an item to that list, as specified.~~ The bill also would permit the governing board of a school district to approve supplemental instructional materials other than those approved by the state board if the governing board performs specified reviews and determines that other supplemental instructional materials are aligned with the *California* common core academic content standards and meet the needs of the pupils of the district. The bill would require supplemental instructional materials approved by the state board and the governing board of a school district in the subject areas of mathematics and English language arts to be reviewed by content review experts, as specified. The bill ~~also would also~~ require supplemental instructional materials to comply with specified social content review requirements. The bill would require the department to maintain on its Internet Web site a list of supplemental instructional materials approved by the state board.

(3) The provisions of the bill would become inoperative on July 1, 2014, and would be repealed on July 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California and 40 other states have adopted common core
- 4 academic content standards in language arts and mathematics to
- 5 provide consistent and clear expectations of what pupils need to
- 6 learn to compete in a global economy.
- 7 (b) Eighty-five percent of the standards are common across the
- 8 nation, with 15 percent being unique to California.
- 9 (c) It is the intent of the Legislature that the state collaborate
- 10 with other states in the development of instructional materials to
- 11 realize efficiencies, particularly for the 85 percent of the standards
- 12 that are common across the nation.
- 13 (d) *It is also the intent of the Legislature to develop a process*
- 14 *for the adoption of instructional materials that are specific to 8th*
- 15 *grade mathematics and are aligned to the California common core*
- 16 *academic content standards for mathematics.*

SEC. 2. Section 60227.5 is added to the Education Code, to read:

60227.5. (a) *The department shall recommend, and the state board shall approve, evaluation criteria to guide the development and review of 8th grade mathematics instructional materials submitted pursuant to this section. Notwithstanding paragraph (6) of subdivision (c) of Section 60200, a publisher or manufacturer shall have 12 months, from the date the state board adopts the evaluation criteria, to develop and submit 8th grade mathematics instructional materials pursuant to this section.*

(b) *The department shall recommend, and the state board shall approve, content review experts to review, in an open and transparent process, instructional materials submitted for approval in the subject of 8th grade mathematics. The majority of content review experts shall be teachers who are credentialed in the subject area of mathematics. The content review experts also shall include appropriate persons from postsecondary institutions, school and school district curriculum administrators, and other persons who are knowledgeable in mathematics.*

(c) Before commencing the adoption process for 8th grade mathematics instructional materials, the department shall provide notice, pursuant to subdivision-(e) (e), in all of the following manners:

(1) Provide notice to all publishers and manufacturers known to produce basic instructional materials for 8th grade mathematics.

(2) Post an appropriate notice on the department's Internet Web site.

(3) Take other reasonable measures to ensure that appropriate notice is widely circulated to potentially interested publishers and manufacturers.

~~(b)~~

(d) The notice provided pursuant to subdivision-(a) (c) shall specify that each publisher or manufacturer choosing to participate in the 8th grade mathematics instructional materials adoption process shall be assessed a fee pursuant to subdivision-(d) (f).

~~(e)~~

(e) The department, prior to incurring substantial costs for the 8th grade mathematics instructional materials adoption process, shall require a publisher or manufacturer that wishes to participate in the 8th grade mathematics instructional materials adoption

1 process to first declare ~~their~~ *its* intent to submit one or more specific  
2 instructional materials for adoption.

3 ~~(d)~~

4 (f) (1) The department shall assess a fee on each publisher or  
5 manufacturer that chooses to participate in the 8th grade  
6 mathematics instructional materials adoption process, which shall  
7 comply with all of the following:

8 (A) The fee shall be based on the number of instructional  
9 materials that the publisher or manufacturer indicates ~~they~~ *it* will  
10 submit for review.

11 (B) The fee shall be an amount that does not exceed the  
12 reasonable costs to the department in conducting the 8th grade  
13 mathematics instructional materials adoption process and the  
14 department shall take reasonable steps to limit the costs of the 8th  
15 grade mathematics instructional materials adoption process and  
16 to keep the fee modest, recognizing that some of the work  
17 necessary for the primary adoption of instructional materials need  
18 not be duplicated.

19 (C) The department shall assess the fee after the publisher or  
20 manufacturer complies with subdivision ~~(e)~~ (e).

21 ~~(D) The fee shall be payable by the publisher or manufacturer~~  
22 ~~even if the publisher subsequently chooses to withdraw an~~  
23 ~~instructional material for adoption.~~

24 (2) The submission of an instructional material by a publisher  
25 or manufacturer shall not be reviewed for purposes of adoption  
26 until the fee assessed pursuant to this subdivision is paid in full.

27 ~~(e)~~

28 (g) It is the intent of the Legislature that the fee assessed  
29 pursuant to subdivision ~~(d)~~ (f) not be so substantial that it prevents  
30 publishers and manufacturers from participating in the 8th grade  
31 mathematics instructional materials adoption process.

32 ~~(f) (1) Upon the request of a small publisher or manufacturer,~~  
33 ~~the department may reduce the fee for participation in the 8th grade~~  
34 ~~mathematics instructional materials adoption process.~~

35 (2) ~~For purposes of this section, “small publisher” or “small~~  
36 ~~manufacturer” means an independently owned or operated~~  
37 ~~publisher or manufacturer that is not dominant in its field of~~  
38 ~~operation, and that, together with its affiliates, has 100 or fewer~~  
39 ~~employees, and has average annual gross receipts of ten million~~  
40 ~~dollars (\$10,000,000) or less over the previous three years.~~

1     ~~(g)~~

2     (h) Notwithstanding subdivision (b) of Section 60200, if the  
3 department determines that there is little or no interest in  
4 participating in the 8th grade mathematics instructional materials  
5 adoption process by publishers and manufacturers, it shall  
6 recommend to the state board that the 8th grade mathematics  
7 instructional materials adoption process should not be conducted,  
8 and the state board may decide to not conduct the 8th grade  
9 mathematics instructional materials adoption process.

10    ~~(h)~~

11    (i) Revenue derived from fees charged pursuant to subdivision  
12 ~~(d)~~ (f) shall be budgeted as reimbursements and subject to review  
13 through the annual budget process and may be used to pay costs  
14 associated with the 8th grade mathematics instructional materials  
15 adoption process.

16    (j) *Eighth grade mathematics instructional materials submitted*  
17 *and approved pursuant to this section shall be added to the existing*  
18 *list of adopted basic instructional materials and shall not be*  
19 *considered to be part of a six-year submission cycle authorized*  
20 *pursuant to subdivision (b) of Section 60200.*

21    ~~(i)~~

22    (k) The adoption of 8th grade mathematics instructional  
23 materials by the state board in accordance with the adoption process  
24 described in this section shall be *performed notwithstanding Section*  
25 *60200.7, and shall be* considered the adoption of instructional  
26 materials that are aligned to the *California* common core academic  
27 content standards for 8th grade mathematics.

28    ~~(j)~~

29    (l) This section shall become inoperative on July 1, 2014, and,  
30 as of July 1, 2015, is repealed, unless a later enacted statute, that  
31 becomes operative on or before July 1, 2015, deletes or extends  
32 the dates on which it becomes inoperative and is repealed.

33    SEC. 3. Section 60605.86 is added to the Education Code, to  
34 read:

35    60605.86. (a) *The department shall recommend, and the state*  
36 *board shall approve, evaluation criteria to guide the development*  
37 *and review of supplemental instructional materials.*

38    (b) Notwithstanding any other law, and on a one-time basis, the  
39 department shall develop a list, on or before July 1, 2012, of  
40 supplemental instructional materials for use in kindergarten and

grades 1 to 8, inclusive, that are aligned with ~~California's~~ *the California* common core academic content standards in language arts and mathematics. The supplemental instructional materials shall provide a bridge between the common core academic content standards and the standards-aligned instructional materials currently being used by local educational agencies.

~~(b)~~

(c) (1) The department shall recommend, and the state board shall approve, content review experts to review, in an open and transparent process, supplemental instructional materials submitted for approval in the subject areas of mathematics, ~~including, but not limited to, 8th grade mathematics,~~ and English language arts.

(2) The majority of content review experts approved pursuant to paragraph (1) shall be teachers who are credentialed in the subject area they are reviewing. The content review experts shall also include appropriate persons from postsecondary institutions and school and school district curriculum administrators, and other persons who are knowledgeable in the appropriate subject area.

(3) The content review experts shall serve without compensation.

~~(e)~~

(d) (1) On or before September 30, 2012, the state board shall ~~do either of the following:~~

~~(1) Approve the supplemental instructional materials as proposed by the department.~~

~~(2) Reject the supplemental instructional materials as proposed by the department. If the state board rejects the supplemental instructional materials, it shall provide a specific written explanation to the Superintendent, the Governor, and the Legislature of the reasons why the proposed materials were rejected.~~

*(A) Approve all, or a portion, of the list of supplemental instructional materials proposed by the department, taking into consideration the review of the content review experts and any other relevant information, as appropriate.*

*(B) Reject all, or a portion, of the list of supplemental instructional materials proposed by the department, taking into consideration the review of the content review experts and any other relevant information, as appropriate.*

(2) *The state board may add an item to the list of supplemental instructional materials proposed by the department.*

(3) *If the state board rejects all, or a portion, of the list of supplemental instructional materials proposed by the department, or adds an item to the list, the state board, in a public meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), shall provide written reasons for the removal or addition of an item on the list. The state board shall not approve a supplemental instructional material it adds to the list at the same time it provides its written reason for adding the material; instead, the state board shall approve the added material at a subsequent public meeting.*

~~(d)~~

(e) (1) The governing boards of school districts may approve supplemental instructional materials other than those approved by the state board pursuant to subdivision ~~(e)~~ (d) if the governing board determines that other supplemental instructional materials are aligned with the *California* common core academic content standards and meet the needs of the pupils of the district. The governing board of a school district may only approve supplemental instructional materials that comply with *the evaluation criteria approved pursuant to subdivision (a) and the requirements of Section 60226, subdivision (g) of this section (h), and Article 4 (commencing with Section 60060).*

(2) (A) A supplemental instructional material approved by a governing board of a school district pursuant to this subdivision that is in the subject area of mathematics or English language arts shall be reviewed by content review experts chosen by the governing board.

(B) The majority of the content review experts chosen pursuant to subparagraph (A) shall be teachers who are credentialed in the subject area they are reviewing. The content review experts shall include appropriate persons from postsecondary institutions and school and school district curriculum administrators, and other persons who are knowledgeable in the appropriate subject area.

(C) The content review experts shall serve without compensation.

~~(e)~~

(f) Publishers choosing to submit supplemental instructional materials for approval by the state board shall submit standards maps.



~~(f)~~

(g) (1) Before approving supplemental instructional materials pursuant to this section, the state board shall review those instructional materials for academic content, social content, and instructional support to teachers and pupils. Supplemental instructional materials approved by the state board pursuant to this section shall meet required program criteria for grade-level programs, intervention programs, and English learners and shall include materials for use by teachers.

(2) Before approving supplemental instructional materials pursuant to this section, the governing board of a school district shall review those instructional materials for academic content and instructional support to teachers and pupils. Supplemental instructional materials approved by the governing board of a school district pursuant to this section shall meet required program criteria for grade-level programs, intervention programs, and English learners, and shall include materials for use by teachers.

~~(g)~~

(h) Supplemental instructional materials approved pursuant to this section shall comply with the social content review requirements that would be imposed by Assembly Bill 339 of the 2011–12 Regular Session if that bill becomes operative; otherwise, the governing board of a school district shall review supplemental instructional materials for social content in compliance with Article 3 (commencing with Section 60040).

~~(h)~~

(i) The department shall maintain on its Internet Web site the list of supplemental instructional materials approved by the state board pursuant to subdivision ~~(b)~~ (d).

~~(i)~~

(j) This section shall become inoperative on July 1, 2014, and, as of July 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before July 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.